

**CHAPTER NO. 519**

**HOUSE BILL NO. 1865**

**By Representatives Mumpower, McDaniel**

**Substituted for: Senate Bill No. 1786**

**By Senator Fowler**

AN ACT to amend Tennessee Code Annotated, Title 68, Chapter 11, Part 10, relative to the Vulnerable Individuals Registry.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 11, Part 10, is amended by deleting the title in its entirety and substituting a new title, so that as amended the title shall read:

Part 10 - Registry of Persons Who Have Abused, Neglected, or Misappropriated the Property of Vulnerable Individuals.

SECTION 2. Tennessee Code Annotated, Section 68-11-1001(a), is amended by deleting the language "or intentionally neglected elderly or" and substituting the language "neglected, or misappropriated the property of", so that as amended the subsection shall read:

(a) The Department of Health shall establish and maintain a registry containing the names of any persons who have been determined to have abused, neglected, or misappropriated the property of vulnerable individuals.

SECTION 3. Tennessee Code Annotated, Section 68-11-1002, is deleted in its entirety.

SECTION 4. Tennessee Code Annotated, Section 68-11-1004, is deleted in its entirety and a new section inserted in its place, to read as follows:

68-11-1004. Prerequisites to including name on registry. - Notice to alleged perpetrator. - Removal of name from registry.

(a)(1) The Department of Health shall include the name of an individual on the registry when it receives notification from an agency of Tennessee State Government that the individual has been found by that agency, pursuant to that agency's procedures and definitions, to have abused, neglected or misappropriated the property of a vulnerable person who is under eighteen (18) years of age, or who, by reason of advanced age or other physical or mental condition is vulnerable to abuse, neglect, or misappropriation of property, and who was at the time of such determination, in the care of:

(i) a state agency;

(ii) an entity which is licensed or regulated by a state agency; or

(iii) an entity, under the provisions of a contract between that entity and state agency;

(2) Such notification shall consist of a copy of a final administrative order, a judicial order, or other evidence indicating that the agency has afforded the alleged perpetrator an opportunity for an administrative due process hearing pursuant to the requirements of the Uniform Administrative Procedures Act compiled in Title 4, Chapter 5, Part 3 or equivalent judicial or administrative procedures; provided, that nothing in this part shall require the state agency to establish any new procedures or to modify any existing procedures it may use for the provision of due process to an alleged perpetrator.

(3) Such notification shall include the alleged perpetrator's last known mailing address, social security number, and the agency's definition of abuse, neglect, or misappropriation of property which it used in making the determination.

(b) The Department of Health shall include a name on the registry when it receives a copy of a criminal conviction judgment from the Tennessee Bureau of Investigation or other federal, state or local law enforcement or criminal justice agency, indicative that an individual has been convicted of any crime the elements of which constitute abuse, neglect, or misappropriation of the property of a vulnerable person.

(c) Upon receiving the notification set out in (a) or (b) above, the Department of Health shall enter the alleged perpetrator's name on the registry. It shall also maintain, and make available upon request, the name of the reporting agency and the applicable definition of abuse, neglect, or misappropriation of property, supplied by that agency.

(d) Upon entry of this information, the Department of Health will notify the alleged perpetrator, at his/her last known mailing address, of his/her inclusion on the registry. Although the alleged perpetrator may not collaterally attack the prior hearing conclusions or any criminal conviction nor attempt to refute the factual findings upon which such are based, he/she may challenge the accuracy of the report that such a conviction has occurred or such hearing conclusions were made. If, within 30 days of notification of inclusion, the alleged perpetrator makes such a challenge, the commissioner shall afford the opportunity for a hearing on the matter which complies with the requirements of due process and the provisions of the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, Part 3.

(e) An alleged perpetrator's name shall be immediately removed from the registry if:

(1) Upon a hearing, the commissioner determines that the initial report of a criminal conviction or hearing conclusions were inaccurate (that such a conviction never occurred or such hearing conclusions were never made); or,

(2) At the final step taken in an appellate process, the reported conviction or hearing result is reversed.

SECTION 5. Tennessee Code Annotated, Section 68-11-1005, is deleted in its entirety.

SECTION 6. Tennessee Code Annotated, Section 68-11-1006, is amended by deleting the section in its entirety and by substituting instead the following new language:

68-11-1006. Agencies or entities required to consult registry prior to hiring employees or utilizing volunteers. - (a) Any:

(1) state agency under Titles 33, 37, 68 or 71;

(2) entity licensed by a state agency as defined in subdivision (1); or

(3) entity under the provisions of a contract between that entity and a state agency, as defined in subdivision (1), which has in its care any individual who is under eighteen (18) years of age, or who, by reason of advanced age or physical or mental condition is vulnerable to abuse, neglect, or misappropriation of property, shall, before hiring any employee to provide care to such vulnerable person, or before allowing a volunteer to do so, must determine whether the prospective employee or volunteer is listed on the registry.

(b) No employee or volunteer who is listed on the registry may be hired or otherwise permitted to provide such care where prohibited by federal certification requirements applicable to that entity or state agency.

SECTION 7. Tennessee Code Annotated, Section 68-11-1007, is deleted in its entirety.

SECTION 8. Tennessee Code Annotated, Section 68-11-1008, is deleted in its entirety and a new section inserted in its place to read as follows:

68-11-1008. Immunity from liability for allegations or testimony regarding abuse, neglect, or misappropriation of property. - (a) Anyone who submits an allegation of abuse, neglect, or misappropriation of property to the department for inclusion in the registry, or who testifies in any administrative or judicial proceeding arising from such allegation shall be immune from any civil or criminal liability for making such report or for testifying except for liability for perjury, unless such person acted in bad faith or with malicious purpose.

(b) A licensing authority which refuses to license a person listed on the registry established by this part, or which refuses to license an entity which employs or allows such a person to provide care to vulnerable persons, or a person or entity which declines to employ or otherwise utilize such a person, or which terminates such a person, shall be absolutely immune from suit by or on behalf of that person and from any liability for such actions based upon the person's listing on the registry.

SECTION 9. This act shall take effect upon becoming law, the public welfare requiring it.

PASSED: May 27, 1999



JIMMY RAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES



JOHN S. WILDER  
SPEAKER OF THE SENATE

APPROVED this 17<sup>th</sup> day of June 1999



DON SUNDQUIST, GOVERNOR